

Applicants : Bruce G. MacGregor et al
Serial No. : 10/076,709
Confirmation : 1804
Atty. Dkt. : STE01 P-1113
Page : 24

Remarks/Arguments:

Reconsideration of the application as amended is requested.

Applicants request a two month extension of time respond to the outstanding Office action, and a separate petition to this effect is enclosed.

The Examiner's remarks and cited references have been received and carefully considered. Originally presented claims 23, 24, 38-52 and 64 inclusive have been canceled without prejudice, and new claims 65 and 66 have been added.

Applicants note with appreciation the Examiner's comment that claims 37 and 63 would be allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims. The subject matter of original claims 37 and 63 is presented herein in new claims 65 and 66 respectively, such that the same are believed to be in condition for immediate allowance.

Applicants note that the Examiner has maintained the previously entered restriction requirement, such that claims 23, 24, 38-52 and 64 are deemed withdrawn from further consideration, and the restriction requirement is now made final. While Applicants believe that the subject restriction requirement is inappropriate, withdrawn claims 23, 24, 38-52 and 64 have now been canceled without prejudice, such that the issue is deemed moot. Applicants reserve the right to pursue the subject withdrawn and now canceled claims in a continuing application.

Applicants : Bruce G. MacGregor et al
Serial No. : 10/076,709
Confirmation : 1804
Atty. Dkt. : STE01 P-1113
Page : 25

The Examiner rejected original claims 1-6, 9-12, 14-17, 20, 22, 25-35 and 53-62 inclusive under 35 U.S.C. § 103 as unpatentable over the Bastian et al Patent 6,115,978 in view of the Hellwig et al Patent 6,253,509. More specifically, the Examiner states,

“Regarding claims 1, 4, 10, 14, 15, 16, 20, 22, 25, 26, 28, 53 and 57, Bastian discloses a partition panel system comprised of a rigid pair of vertical and horizontal outer frame members (fig. 3: 13, 16, 18, 21), and parallel horizontal members located inside the outer frame (fig. 3: 19a, 19c, 19d). Bastian also discloses a modular appliance mounted on a horizontal member (fig. 3: 20d), a cover panel between the appliance and a vertical frame member (fig. 3: 20c) having protruding connectors and cover panels between the horizontal members and outer frame members (fig. 3: 20a, 20f). However, Bastian does not disclose the horizontal members as having attachment locations. Hellwig discloses a partition wall system comprised of outer frame members and intermediate horizontal member with attachment locations (fig. 3: 31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bastian by adding attachment locations on the horizontal members in order to better secure the panels to the wall.”

For those reasons set forth in detail below, Applicants assert that all pending claims are patentable over the Bastian et al and Hellwig et al patents, as well as the remaining references of record.

Applicants : Bruce G. MacGregor et al
Serial No. : 10/076,709
Confirmation : 1804
Atty. Dkt. : STE01 P-1113
Page : 26

The Bastian et al Patent 6,115,978 discloses a floor-to-ceiling partition system 10, designed to define a laboratory workspace within a larger enclosed laboratory space. The Bastian et al partition system 10 lies on a supporting floor surface "S" and extends between the surface "S" and a ceiling member "C". It includes a wall member "W" that supports furnishings, such as shelving "V" disposed on the wall member in a cantilevered fashion, as well as cabinets and countertops "K" that lie on the surface "S" as shown in Fig. 1, and that hang on from the wall member "W" in a cantilevered fashion as shown in Fig. 2. The Bastian et al wall member "W" includes a frame assembly "F" comprising vertical columns 11, 12, 13 and 14, top cross beams 15 and 16, bottom cross beams 17 and 18, and intermediate cross beams 19a-d. The components 11-19 are hollow members having a predetermined width of sufficient magnitude to allow passage of utility lines, including water, gas and electricity lines in the spaces defined by them. Cover panels 20a-f enclose interior framing components 11-19, and include hook portions (not shown) that extend into openings 21 on columns 11-14 to hang the cover panels from the columns. An end cover panel 20g extends over the exposed distal end of the frame "F", over a face of the column 11 to close and finish that end of the frame. Each of the columns 11-14 is open at its top end, where it supports a telescoping segment 22 which attaches the panels to ceiling "C". To close the openings between top beams 15 and 16 and the ceiling "C", the wall member "W" includes panels 33 and 34. In installations where the ceiling is a drop ceiling, as shown in Figs. 6-9, support member 42 lies on top of a ceiling

Applicants : Bruce G. MacGregor et al
Serial No. : 10/076,709
Confirmation : 1804
Atty. Dkt. : STE01 P-1113
Page : 27

panel "C" as shown in Fig. 6, and distributes the load of the attachment assembly 24 over the entire panel. Figs. 7 and 8 show a modified support member 44, which receives a frame member of the drop ceiling and allows the support member to straddle the frame member and distribute the load of the attachment assembly 24 to two adjacent ceiling panels "C".

Initially, Applicants point out that the Bastian et al panel system is a floor-to-ceiling system, and has a positive attachment at the top of the walls "W" to an associated ceiling "C", unlike the freestanding partition panel and related system set forth in the rejected claims. F

Furthermore, Applicants believe the Examiner's following statement,

"Bastian also discloses a modular appliance mounted on a horizontal member (fig. 3: 20d)"

is not taught by the Bastian et al patent. Rather, in Fig. 3 of the Bastian et al patent, the element designated by the reference numeral 20d is a cover panel, and not a "modular appliance" as set forth in the rejected claims. Also, while the Bastian et al floor-to-ceiling partition system does include intermediate cross beams 19a-19d, there is no teaching of how they are connected to the vertical columns 22, and certainly no suggestions that they are vertically adjustable within the interior of the Bastian et al framework. Applicants also note that Bastian et al specifically teaches attaching cover panels 20a-f only to openings 21 in the vertical columns 11-14, and not the intermediate cross beams 19a-19d. Finally, Applicants agree with the Examiner's comment that Bastian certainly does not teach horizontal members

Applicants : Bruce G. MacGregor et al
Serial No. : 10/076,709
Confirmation : 1804
Atty. Dkt. : STE01 P-1113
Page : 28

having multiple attachment locations. Clearly, the Bastian et al patent does not, by itself, render the pending claims unpatentable.

The Hellwig et al Patent 6,253,509 discloses a workspace partition system 20, comprising three wall panels 22 that are positioned mutually at right angles, and extend outwardly from a column member 24 to which the panels are secured by fasteners (not shown). Each of the wall panels 22 includes a rectangular structural frame and a number of cladding elements 26 that are removably secured to the frame, as shown in Fig. 2. Cladding elements 26 include clips 30 which are engaged in openings 31 on cross frame members 44 to support the cladding panels 26 on the panel frames. With reference to Fig. 3 of the Hellwig et al patent, a raceway element 52 extends transversely of the panel, and supports receptacles 46 and a jack 48. The vertical position of frame member 44 is selected so that when the raceway is assembled, the receptacles 46 and the jack 48 are in the required beltline location shown in Fig. 5. The raceway 54 is formed in part by an intermediate transverse frame member 44, which includes slots 31 in the opposite faces thereof. The raceway is completed by full width front and rear raceway cover plates 86 and 88 that are secured to the side flanges of the respective frame members 74 and 40 through openings 31. Raceway cover plates 86 and 88 extend all the way across the width of the panel, and include windows in which receptacles 46 are secured using isolation plates 46a. The full width cover plates 86 and 88 also include an opening in which jack 48 is snap fit.

Applicants : Bruce G. MacGregor et al
Serial No. : 10/076,709
Confirmation : 1804
Atty. Dkt. : STE01 P-1113
Page : 29

While the Hellwig et al patent does teach a partition panel having cross members with horizontally spaced apart openings to receive clips for supporting cladding panels 26 and/or cover panels 86 and 88 thereon, it is otherwise quite divorced from the present invention. For example, in the Hellwig et al patent, each of the cladding elements 26 and cover panels 86 and 88 is full width, and extends across the entire width of the panel frame. The openings 31 of Hellwig et al which support the full width cladding elements 26 and cover panels 86 and 88 do not create or contemplate discrete, serially adjacent mounting spaces or positions for modular appliance units, so that the same can be positioned at different vertical and horizontal locations on the panel frame, or a cover arrangement which combines with the modular appliance unit to fully enclose the opposite faces of the panel. Hence, the Hellwig et al patent clearly does not contemplate those unique features set forth in the rejected claims.

The Examiner's hypothetical combination of the Bastian et al and Hellwig et al patents is not believed to be well taken. It is well established that it is the burden of the Examiner to establish a prima fascia case of obviousness when rejecting claims under 35 U.S.C. § 103. Applicants respectfully assert that the Examiner has not met this burden of establishing a prima fascia case of obviousness. The Examiner appears to have taken bits and pieces of the prior art Bastian et al and Hellwig et al devices and combined the same in a manner which could only have been accomplished with the benefit of Applicants' own invention. More specifically, the modification of the Bastian et al panel system by adding the Hellwig et al attachment locations

Applicants : Bruce G. MacGregor et al
Serial No. : 10/076,709
Confirmation : 1804
Atty. Dkt. : STE01 P-1113
Page : 30

is not taught or suggested by the references themselves. Obviousness cannot be established by combining the teachings of the prior art in a hypothetical manner to produce the claimed invention, absent some teaching, suggestion or incentive supporting the proposed combination. The purpose of the Hellwig frame openings 31 is to support full width cladding elements 26 and cover panels 86 and 88 at a single, vertically aligned location on the associated panel frame. There is no indication in the Hellwig patent that either the cladding elements 26 or cover plates 86 and 88 could be shifted into a position or location other than the vertically aligned position shown in the drawings. Hence, Applicants believe that that hypothetical modification of the Bastian panel asserted by the Examiner is inappropriate, and should be withdrawn.

Furthermore, even assuming *arguendo* that some combination of the Bastian et al and Hellwig et al patents is appropriate, Applicants assert that the same still does not teach or suggest the claimed partition panel and related system set forth in the rejected claims. More specifically, neither of the subject patents, either singularly or in combination, discloses providing a plurality of discrete, serially adjacent mounting spaces or positions along the face of the panel to receive one or more modular appliance units at selected attachment locations, and an associated cover panel arrangement, which closes off the remaining portions of the face of the panel frame.

Applicants : Bruce G. MacGregor et al
Serial No. : 10/076,709
Confirmation : 1804
Atty. Dkt. : STE01 P-1113
Page : 31

The Examiner rejected original claims 7, 8, 18, 19 and 21 under 35 U.S.C. § 103(a) as being unpatentable over the Bastian et al Patent 6,155,978 in view of the Hellwig et al Patent 6,253,509 and the Müller Patent 5,980,279. The Müller Patent 5,980,279 discloses a recessed electrical receptacle for a desk or worksurface, such as the illustrated boardroom table 10. The Müller receptacle 20 comprises an outer housing 22, which houses a concealed compartment 30 containing electrical ports, such as power supply port 2 and/or communication support 4, as well as an exposed compartment 40 which is accessible to the user for connecting and disconnecting electrical cables, such as power cable 6 and/or communication interface cables to respective ports 2, 4. A cover plate 60 is provided, which when closed, does not extend fully to the front of the receptacle, thereby leaving a gap 58 through which the connected cable 6, 8 immerge from the receptacle 20 to the various electrical devices (not shown). While the Müller patent does disclose a modular electrical receptacle for a table, it is otherwise quite different from the claimed invention, which is directed to a partition panel and related system. There is no teaching or suggesting in the Müller patent supporting the hypothetical modification of the Bastian et al and Hellwig et al patents suggested by the Examiner.

The Examiner rejected claim 13 under 35 U.S.C. § 103(a) as unpatentable over the previously discussed Bastian et al and Hellwig et al patents, in further combination with the Chau et al Patent 6,101,773. The Chau et al Patent 6,101,773 is assigned to the Assignee of the present application, and discloses a wire management system for partition panels, which

Applicants : Bruce G. MacGregor et al
Serial No. : 10/076,709
Confirmation : 1804
Atty. Dkt. : STE01 P-1113
Page : 32

includes a door 22 mounted by a piano hinge 23 to the upper horizontal element 15 of an associated frame. The Chau et al wire management system 10 includes four elongate channels 42a, 42b, 42c and 42d extending vertically and horizontally spaced from one another along an associated plate 28. Mounting blocks 58 are attached to channel 40a-42d, and support brackets 76 and 78 thereon. The Chau et al patent does not teach or suggest the unique partition panel and related system set forth in the rejected claims or contemplate the use of a plurality of discrete, serially adjacent mounting spaces to receive a modular appliance unit therein, or the associated cover panel arrangement, which in conjunction with the modular appliance unit, encloses the associated face of the partition panel frame. Clearly, the Chau et al patent does not support the hypothetical modification of the Bastian reference asserted by the Examiner.

The Examiner also rejected claim 36 under 35 U.S.C. § 103 as unpatentable over the previously discussed Bastian et al and Hellwig et al patents in view of the Brown et al Patent 5,537,290. The Brown et al Patent 5,537,290 discloses a workstation with an adjustable flat electronic display screen. While the Brown et al patent does disclose an articulating support arm for a flat display screen that may be supported on a partition panel, it does not contemplate the claimed invention as discussed above, which includes a plurality of discrete, serially adjacent mounting spaces in which a modular appliance unit can be supported, in conjunction with a unique cover panel arrangement, which in conjunction with the modular appliance unit, enclose the associated face of the panel.

Applicants : Bruce G. MacGregor et al
Serial No. : 10/076,709
Confirmation : 1804
Atty. Dkt. : STE01 P-1113
Page : 33

The remaining references of record have been carefully examined, and none teach or suggest those features noted as lacking in the Bastian et al, Hellwig et al, Müller, Chau et al and Brown et al patents discussed above.

Applicants submit that the references of record do not teach or in any way suggest the unique partition panel and related system set forth in the pending claims. The hypothetical combination of references upon which the Examiner has relied in his rejection of the pending claims is simply not suggested or contemplated by the references themselves, and therefore constitutes an improper hindsight reconstruction of Applicants' own invention. Applicants' invention is directed to problems that are not addressed by any of the prior art references, and solves problems and inconveniences experienced in the prior art, thereby representing a significant advancement in the art. It is therefore respectfully submitted that claims 1-22, 25-37, 53-63, 65 and 66 should be allowed, since the references, taken singularly or in any

Applicants : Bruce G. MacGregor et al
Serial No. : 10/076,709
Confirmation : 1804
Atty. Dkt. : STE01 P-1113
Page : 34

combination, do not teach the invention set forth therein. A notice to this effect is earnestly solicited.

Respectfully submitted,

BRUCE G. MACGREGOR ET AL

By: Price, Heneveld, Cooper, DeWitt &
Litton, LLP



Carl S. Clark
Registration No. 28 288
695 Kenmoor S.E.
P.O. Box 2567
Grand Rapids, Michigan 49501
616/949-9610

CERTIFICATE OF MAILING

I hereby certify that this correspondence, and all identified enclosures and attachments are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on 5/14/04.



Carl S. Clark

CSC/jkrp
Enclosures